

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.A.Nos.1544 and 1545 of 2015

1.Rammohan Rao Mynampati ... Appellant in both appeals

versus

1. Special Director
Adjudicating Authority Directorate of
Enforcement Government of India 6th Floor
Loknayak Bhavan Khan Market
New Delhi
2. Special Director
Directorate Enforcement Southern Regional
Office Government of India Shashtri
Bhavan Block III Floor 26 Haddows Road
Chennai-6 India.
3. Assistant Director
Directorate Enforcement Government of India
3rd Floor Shakar Bhavan Fateh Maidan Road
Basheerbagh Hyderabad-500 004. ... Respondents

Writ appeals filed against the order of this Court dated 15.9.2015 in W.P.Nos.7533 and 7534 of 2015.

W.P.No.7533 of 2015 : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus to call for the records relating adjudicating proceedings in F.No.T-4/01/HYD/2011 on the file of the first and second respondents, quash the same, consequently set aside Notice of personal hearing dated 13.02.2015 in File No.T-4/01/HYD/2011 and forbear the first and second respondents, from proceeding with the inquiry under Rule 4(4) of the Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000 against the petitioner herein.

W.P.No.7534 of 2015 : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of

certiorarified mandamus to call for the records of the complaint in F.No.T-3/02/HYD/2009 dated 06.12.2010 on the file of the third respondent, quash the same and consequently forbear the respondents 1 to 3 from proceeding further with the adjudication under Section 13 of the Foreign Exchange Management Act, 1999 read with Rule 4 of the Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000, against the petitioner herein.

For appellant : Mr.P.S.Raman, Senior counsel
for Mr.P.Giridharan

COMMON JUDGMENT
(made by K.K.SASIDHARAN, J.)

These two intra court appeals are directed against the common order dated 15 September 2015 in W.P.Nos.7533 and 7534 of 2015 whereby and whereunder, the learned Single Judge dismissed the Writ Petitions challenging the show cause notice issued by the Directorate of Enforcement.

2. Heard the learned Senior counsel for the appellant.

3. The Directorate of Enforcement initiated investigation against Sathyam Computer Services Ltd. During the course of investigation under Foreign Exchange Management Act, 1999, show cause notice was issued to the appellant as to why adjudication proceedings, as contemplated under Section 16 of Foreign Exchange Management Act, 1999, read with Rule 4 of Foreign Exchange Management (Adjudication Proceedings and Appeal) Rules, 2000, should not be taken against him. The appellant appears to have submitted his reply. Thereafter, the Enforcement Directorate summoned him for personal hearing. It was only at that point of time, the appellant filed the Writ Petitions challenging the show cause notice.

4. It is the contention of the appellant that he was not on the Board of Directors of Sathyam Computer Services Ltd., during the crucial period and as such, it was not correct on the part of the Enforcement Directorate to summon him for adjudication.

5. The learned Single Judge dismissed the Writ Petitions with an observation that it is for the Adjudicating Authority to decide the matter.

6. The Enforcement Directorate is yet to adjudicate the matter. By issuing show cause notice, it cannot be said that a finding was recorded against the appellant. It was only on account of prima facie materials, show cause notice was issued

to the appellant. It is for the appellant to plead and prove that he was not involved in the affairs of the company. It is not as if the Directorate of Enforcement would not consider such submissions before passing final orders in the matter. We are therefore of the view that the learned Single Judge was perfectly correct in dismissing the Writ Petitions.

7. In the upshot, we dismiss the intra court appeals. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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+2cc's to Mr.P.Giridharan, Advocate, S.R.No.57847

W.A.Nos.1544 and 1545 of 2015

UG(CO)
CA(04/11/2015)